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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,944	08/21/2003	Jerry M. Brownstein	BROW0005	2977

7590 08/12/2005

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EXAMINER
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COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/646,944

Applicant(s)

BROWNSTEIN ET AL.

Examiner

Elizabeth M. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 53-71 is/are pending in the application.
- 4a) Of the above claim(s) 53-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 57, 60-61, 64- 70, 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendes, U.S. Patent No. 5,779,392 in view of "Complete Textile Glossary" and DE 3728899C. Mendes discloses a porous containment means having a plurality of hydrophobic, oleophilic organic fibers disposed therein to absorb and contain oil spills. See col. 3, lines 45-50. Mendes differs from the claimed invention because Mendes does not disclose employing delustered fibers and does not disclose that the fibers should be formed by shredding waste. With regard to the limitation that the fibers are delustered, the addition of delustering agents to polymeric fibers is conventional in the art. Titanium dioxide is a well known delustering agent. See "Complete Textile Glossary." Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed delustered fibers as the fibers in Mendes. One of ordinary skill in the art would have been motivated to employ delustered fibers since incorporating delustering agents such as titanium dioxide into polymeric fibers is conventionally done in the art. The fibers would thus have an inherently rough surface. With regard to the step of shredding waste materials, DE '899 teaches separating paper and plastic materials and shredding waste materials in order to form a fibrous material. The shredded fibers can be used as the adsorbent material to absorbent oil spills. See abstract. Therefore, it would have been obvious to one of

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ordinary skill in the art at the time the invention was made to have employed shredded waste materials such as those taught by DE '899 as the fibers in Mendes, motivated by the expectation that these fibers would be suitable for use as oil adsorbing fibers and also motivated by the expectation that this would enable the fibers to be recycled. With regard to claims 64-69, DE '899 teaches separating plastic materials from other types of materials such as paper, and that the shredding process can produce coarse or less coarse fibrous shreds. See abstract. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have controlled the shredding process of DE '899 so that the fibrous material comprised a single type of fiber having the desired length, etc. A complete translation of DE '899 has been ordered and will be included with the next office action.

Claims 58-59, 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendes, U.S. Patent No. 5,779,392 in view of "Complete Textile Glossary" and DE 3728899C as applied to claims above, and further in view of Mesek et al, U.S. Patent No. 4045833. Mendes does not teach the use of both long and short fibers.

With regard to the use of long and short fibers, Mesek et al teaches at col. 1, lines 52-68, that employing both long and short fibers in a nonwoven fabric enhances the strength, structural stability and integrity of the fabric. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed long and short fibers in the fibrous mass of Mendes. One of ordinary skill in the art would have been motivated to employ long and short fibers in order to enhance the strength and integrity of the nonwoven. It would have been obvious to have

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optimized the particular lengths and proportions of the fibers in order to obtain a nonwoven having the desired combination of strength and absorbency.

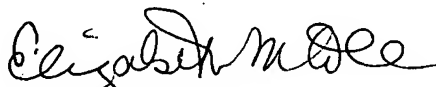
Applicant's election of Group I without traverse in the paper filed 6/3/05 is acknowledged.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c